- Atty Motsenbocker, Gary L., sole practitioner (for Petitioner Public Guardian, Conservator)
- Atty Knudson, David, sole practitioner (for Respondent Virginia Greggains, daughter)
- Atty J. Stanley, Teixeira, sole practitioner (Court-appointed for Conservatee)
- Atty Thornton, Douglas V., of Perkins Mann & Everett (for Objector Julie Banks)

Status Re: (1) Petition Requesting Relief for Breach of Fiduciary Duty; and (2) for an Accounting and (3) for Conversion of Personal Property and (4) for Elder Abuse and (5) for Damages

Age: 90 years					
	nt. from 021612, 04 1912, 071112, 0815				
	Aff.Sub.Wit.				
✓	Verified				
	Inventory				
	PTC				
	Not.Cred.				
✓	Notice of Hrg				
✓	Aff.Mail	W/			
✓	Summons				
✓	Sp.Ntc.	W/			
✓	Pers.Serv.	W/			
	Conf. Screen				
	Letters				
	Duties/Supp				
	Objections				
	Video Receipt				
	CI Report				
	9202				
	Order	X			
	Aff. Posting				
	Status Rpt				
	UCCJEA				
	Citation				
	FTB Notice				

PUBLIC GUARDIAN, Conservator of the Person and Estate appointed 11/5/2008, is Petitioner.

Petitioner states:

- The Conservatee was at all relevant times a dependent adult under the care, custody and control of Respondent, VIRGINIA "GINGER" GREGGAINS, daughter;
- The Conservatee was not competent or capable of handling her personal finances or financial affairs and was entirely dependent upon Respondent to do so for her;
- Respondent had a confidential relationship with the Conservatee and her husband,
 ELMER FLY (DOD 11/8/2008), as their child;
- Petitioner alleges Respondent was responsible in some manner for the occurrences alleged herein and the damages proximately caused thereby;
- Elmer and the Conservatee executed a DECLARATION OF TRUST, ELMER V. AND JULIA B. FLY, naming Respondent as Successor Trustee; the Trust was amended several times, the latest being the Third Amendment dated 3/24/2008 (copy of Restated Trust and two subsequent amendments attached as Exhibits A, A-1 and A-2); Petitioner has no knowledge if there was an intervening amendment between the Restatement of Trust dated 9/25/2000 and the Second Amendment dated 2/7/2008;
 - ~Please see additional page~

NEEDS/PROBLEMS/COMMENTS:

<u>Page 1B</u> is Second Account Current and Report of Conservator, etc. filed 2/14/2012 by Public Guardian.

Page 1C is Petition for Confirmation of Actions of Attorney-in-Fact, Response to Petition Requesting Relief for Breach of Fiduciary Duty, for an Accounting, etc., and Objection to Second Account of Conservator filed 3/26/2012 by Virginia Greggains.

<u>Page 1D</u> is the Petition Requesting Approval of Settlement Agreement in the Matter of: Petition Requesting Relief for Breach of Fiduciary Duty, etc. filed 8/14/2012 by Public Guardian.

Continued from 8/15/2012. Minute Order states David Knudson is also appearing specially for Gary Motsenbocker. Mr. Knudson informs the Court that he believes they may have a settlement as to all matters. Matter continued to 9/26/2012.

Reviewed by: LEG
Reviewed on: 9/24/12
Updates:
Recommendation:
File 1A - Fly

1A

Petitioner states, continued:

- Respondent has been the sole Successor Trustee of the Trust since December of 2007 or early 2008, and she
 acted in several matters on behalf of the Conservatee and Elmer using General Durable Powers of Attorney
 (copy attached as Exhibit B);
- Petitioner possesses certain transactional documents and forms which Respondent signed in her capacity as
 "power of attorney in fact" in which she indicated she held the power for both Conservatee and Elmer, and
 these transactional documents conclusively establish that Respondent was acting in a fiduciary capacity for
 Conservatee;
- Petitioner possesses copies of a number of checks written on an account in the names of Conservatee, Elmer, and Virginia "Ginger" Greggains (Respondent); the transactions in this account are the prime source of a number of questionable expenditures made by Respondent from Consevatee's funds; the address on the checks is the personal residence of Respondent; a number of checks were written, signed and made payable to Respondent as well as to Respondent's husband, STEPHEN ROY GREGGAINS, each in the amount of \$5,000.00;
- In early 2008, Respondent contacted SOUTAS & ASSOCIATES, a firm engaged in Medi-Cal planning services, and in connection with the consultation, Respondent agreed to purchase an annuity on behalf of Conservatee and signed an application for an annuity with OM Financail Life Insurance on 5/29/2009 of \$159,983.79;
- On the annuity application, Respondent stated Conservatee held cash and investment accounts valued at \$357,000.00; the application contains handwritten entries detailing \$82,000 in "Investment Experience and Holdings," \$200,000 in "Money Market" accounts, and \$75,000 in "Other Mutual Funds" accounts;
- As of 9/12/2008, the date of PUBLIC GUARDIAN'S appointment as temporary conservator, Respondent surrendered ~\$231,000.00 in accounts, and it appears that \$\frac{\$120,000.00}{200}\$ in cash and investments accounts asserted to have existed by Respondent in May 2008 is missing;
- Respondent should be ordered to account for all of the cash and investment accounts held by Conservatee from 12/1/2007 to the date Respondent surrendered the assets in her possession to the Public Guardian;
- Respondent arranged for the removal and disposition of jewelry, motor vehicles, household furniture and
 furnishings, and several personal property items belonging to the Conservatee contained in her personal
 residence, in anticipation of the sale of the residence by Respondent; Petitioner alleges Respondent personally
 took and/or made gifts to family members of a number of the items from the residence, she sold some of the
 personal property at several yard sales, and she did not account to the principals for any of the proceeds or
 disposition of the items;
- Petitioner alleges that Respondent made gifts of motor vehicles that belonged to the Conservatee to family
 members without consideration; she removed and disposed of a number of plants growing on the residential
 property of Conservatee which are believed at the time to be worth thousands of dollars; she used funds
 belonging to the Conservatee to purchase and make improvements on her own residence, to make the down
 payment on a personal vehicle for herself, and to pay off a personal loan that she and her husband owned on
 a travel trailer:
- The Conservatee's financial status at present is tenuous at best; her annuity payments and monthly income are sufficient to fund her care for ~2 years; Petitioner has been unable to modify the annuity payments from the original terms to allow monthly payments, which combined with her income would sustain payments of \$5,625.00 per month to her residential facility; it is anticipated that additional funds will be necessary to sustain the Conservatee in her present environs.

Petitioner states, continued:

Causes of Action:

- Respondent had a duty to exercise the utmost care, integrity, honesty and loyalty in her dealings with Conservatee's property in her capacity as attorney in fact for Conservatee or in her capacity as trustee of Conservatee's Trust; in breach of her fiduciary duty, Respondent deposited Trust funds into her own personal account; she took Conservatee's funds and used them for her own benefit, she took possession of Conservatee's personal property and the proceeds from sale of such property and converted those funds to her own use; the actions of Respondent accrued to the detriment of the Conservatee; Respondent know or should have known that her acts would accrue to the detriment of the Conservatee and that she did all of these acts in patent "bad faith" with the intent of depriving the Conservatee of her property without good and sufficient consideration and in violation of her duty to the Conservatee;
 - Respondent has not rendered an account of her administration of the personal property and funds of
 Conservatee as required by law, and has not accounted to Conservatee or her legal representative for her
 actions as to the Conservatee's assets and their disposition; she has provided inaccurate and incomplete
 information regarding the assets taken for her benefit; Petitioner requests the Court order Respondent to
 render a verified detailed account of her handling of the financial and personal affairs of the Conservatee
 from 12/1/2007 to the present and to serve that account to Petitioner within 90 days of the hearing.
 - Respondent owed the Conservatee a duty to act in scrupulous good faith and absolute candor; Respondent breached her fiduciary duty to the Conservatee by failing to preserve the Conservatee's property, failing to deal impartially with the Conservatee's assets, failing to administer the affairs in Conservatee's best interest, failing to keep the Conservatee and her representatives reasonably informed, failing to keep Conservatee's property separate from her own property, converting Conservatee's property to her own use and enjoyment, and failing to maintain cash held on behalf of Conservatee in interest bearing accounts; Respondent should be ordered to respond in damages for each and every breach of fiduciary duty, wronaful act and/or both as provided for in the law;
 - Respondent's acts in this matter constitute breach of fiduciary duty, as she engaged in self-dealing, she breached her duties of loyalty and impartiality, and all acts of Respondent alleged herein were patently unfair and prejudicial to the interest of the Conservatee and her estate; Respondent failed to observe the directions and intent of the Settlors as expressed in their Trust, and all acts of Respondent in regards to the Trust were done "in bad faith" with intent to deprive Conservatee of property to which she is rightfully entitled and constitute breach of trust; Petitioner alleges Conservatee is entitled to damages with interest as provided in the Code, or in the alternative that Respondent be ordered to pay damages in an amount equal to double the value of all property taken, concealed and/or disposed of by Respondent in bad faith according to proof.
 - Petitioner alleges Respondent did all of the acts alleged with the intent to deprive the Conservatee of her
 property while she held a fiduciary relationship with Conservatee, and that any and all actions of
 Respondent were in violation of her fiduciary duty and should be adjudged voided and set aside, and the
 assets or the value of the assets should be ordered returned and any loss incurred should be surcharged
 against Respondent.

Causes of Action, continued:

- 2. Conversion: The acts of Respondent as set forth constitute conversion of the Conservatee's property; Respondent without legal claim, privilege or right seized and disposed of the tangible personal property of the Conservatee, the Conservatee and/or her estate sustained damages thereby equal to the value of the property at the time it was converted by Respondent; Respondent should be ordered to respond in damages proximately caused by her actions.
- 3. Abuse of an Elderly Person: For a time period to be proven at trial, but no later than December 2007, the Conservatee was elderly, suffering from diminished mental capacity and was easily subjected to be taken advantage of by designing persons such as Respondents; with knowledge of this, each Respondent schemed to take advantage of the Conservatee and intended to cheat her out of her interest in the property; in furtherance of said scheme, which each Respondent concealed from the Conservatee, each Respondent exercised complete dominion and control over the Conservatee's assets and gained knowledge of her assets and property; the conduct of each Respondent resulted in the deprivation of Conservatee's assets which are necessary for her care and ongoing maintenance;
 - The conduct of each Respondent constitutes financial abuse under Welfare & Inst. Code § 15657 as defined in § 15610.30; each Respondent is guilty of recklessness, oppression, and fraud, and acted with malice against the Conservatee in the commission of the abuse; the conduct of each Respondent was in no way for the benefit of Conservatee and was willful and wanton, and was intended to cause injury to her; the Conservatee is entitled to an award of exemplary or punitive damages;
 - Under Welfare & Inst. Code § 15657(a), each Respondent is liable to the Conservatee for reasonable
 attorney fees and costs, including reasonable fees for the services of the Public Guardian, as Conservator of
 her Estate, and their attorney for his services provided to litigate this claim necessitated by conduct of each
 Respondent.
- 4. Constructive Trust: Respondent Greggains and the unnamed Respondents each have wrongfully taken, transferred, concealed and otherwise deprived the Conservatee of funds and/or personal property which rightfully belongs to her, and they therefore have become the involuntary trustees of said property for the benefit of the Conservatee; Respondents should be ordered to surrender and deliver said property to the Conservatee and/or the Petitioner, her legal representative.

Petitioner prays the Court Order:

- Respondent must render a detailed and correct account for all property held and administered by her, either as Trustee and/or as agent under her power of attorney within 90 days of the date of the initial hearing, for the period from 12/1/2007 to the date she surrendered the Conservatee's funds and property to the Public Guardian;
- 2. Respondent must respond in damages for all property taken and/or wrongfully appropriated by her, or for funds and/or property that is missing or unaccounted for, together with interest at the legal rate per annum, from the date of the breach of trust and/or fiduciary obligation;
- 3. Respondent must respond in damages together with interest at the legal rate per annum from the date of breach of trust and/or fiduciary obligation;
- 4. Respondent and the unnamed Respondents must respond in exemplary damages for their outrageous, reckless ness, oppressive, fraudulent and malicious conduct in this matter;

Fourth Additional Page 1A, Julia B. Fly (CONS/PE)

Petitioner prays the Court Order, continued:

- 5. In the alternative, Respondents must respond in damages in an amount equal to twice the value of property taken, concealed and/or disposed of by her "in bad faith;"
- 6. Respondent and the unnamed Respondents must respond in actual damages caused to the Conservatee by their conversion of her tangible personal property;

Case No. 08CEPR00917

- 7. Respondent and the unnamed Respondents are found guilty of elder abuse and are assessed all the damages afforded the Conservatee under the law, including actual damages, exemplary damages, and attorney fees and costs;
- 8. A Constructive Trust is imposed on all assets taken by the Respondent and the unnamed Respondents for any property and sums the Court determines are rightfully due the Conservatee for their wrongful conduct; and
- 9. Attorney's fees and costs of suit are awarded as provided for in the law.

- Atty Motsenbocker, Gary L., sole practitioner (for Petitioner Public Guardian, Conservator)
 Atty Knudson, David, sole practitioner (for Respondent Virginia Greggains, daughter)
 Atty J. Stanley, Teixeira, sole practitioner (Court-appointed for Conservatee)
 Atty Thornton, Douglas V., of Perkins Mann & Everett (for Objector Julie Banks)
 - (1) Second Account Current and Report of Conservator and (2) Petition for Allowance of Compensation to Conservator and Attorneys (Prob. C. 2620, 2623, 2640, 2942)

Age	e: 90 years	PUBLIC GUARDIAN, Conservator of the NEEDS/PROBLEMS/COMMENTS:
	-	Person and Estate appointed 11/5/2008, is
		Petitioner. Continued from 8/15/2012. Minute
		Order states David Knudson is also
Col	nt. from 032712,	Account period: 1/20/2010 – 1/19/2012 appearing specially for Gary Motsenbocker.
041	712, 050912,	Accounting - \$313,100.83
071	112, 081512	Beginning POH - \$287,627.99
	Aff.Sub.Wit.	Ending POH - \$140,331.40
V	Verified	(\$128,831.40 is cash)
	Inventory	Conservator - \$3,660.40
	PTC	(26.95 Deputy hours @ \$96/hr and 14.20 Staff
	Not.Cred.	hours @ \$76/hr)
~	Notice of Hrg	Attorney (County Counsel)- \$690.00
V	Aff.Mail W/	(4.6 hours @ \$150/her)
	Aff.Pub.	Attorney (Motsenbocker) - \$6,863.83 (25.50
	Sp.Ntc.	hours @ \$250/hr plus filing fee of \$395.00 and
	Pers.Serv.	Fed Ex copies of \$93.83)
	Conf. Screen	Day of 6 - 2
	Letters	Bond fee - \$1,510.50
	Duties/Supp	(o.k.)
	Objections	Petitioner prays for an Order:
	Video	
	Receipt	Approving, allowing and settling the
✓	CI Report	Second Account and Report of
	9202	Conservator; 2. Authorizing conservator's
V	Order	compensation;
	Aff. Posting	3. Authorizing payment of attorney fees; Reviewed by: KT / LEG
	Status Rpt	4. Authorizing payment of the bond fee. Reviewed on: 9/24/12
	UCCJEA	Updates:
	Citation	Recommendation:
	FTB Notice	File 1B - Fly

Atty	Motsenbocker, Gary L., sole practitioner (for Petitioner Public Guardian, Conservator)
Atty	Knudson, David, sole practitioner (for Respondent Virginia Greggains, daughter)
Atty	J. Stanley, Teixeira, sole practitioner (Court-appointed for Conservatee)

Thornton, Douglas V., of Perkins Mann & Everett (for Objector Julie Banks)

Julia B. Fly (CONS/PE)

1C

Atty

Petition for Confirmation of Actions of Attorney-in-Fact, Response to Petition Requesting Relief for Breach of Fiduciary Duty, for an Accounting, Etc., and Objection to Second Account of Conservator [Prob. C. 4541 et seq.; 1720 et seq; 850 et sea.: 16440(b) et sea: W & I Code 15657.51

Case No. 08CEPR00917

	seq.; 16440(b) et seq; w & 1 Code 15657.5]				
Ag	e: 90 years	VIRGINIA GREGGAINS (aka "GINGER"), daughter, is	NEEDS/PROBLEMS/COMMENTS:		
		Respondent. Respondent states:	Continued from 8/15/2012. Minute Order states David Knudson is also appearing		
	nt. from 050912, 071112 512	She is the only child of Elmer and Julia Fly; prior to Elmer's death on 11/8/2008, he was under a	specially for Gary		
	Aff.Sub.Wit.	conservatorship with the PUBLIC GUARDIAN as	Motsenbocker.		
✓	Verified	Conservator (Case 08CEPR00829), and those			
	Inventory	proceedings were concluded in 2010;			
	PTC	Julia continues under conservatorship with the Public			
	Not.Cred.	Guardian as Conservator of her person and estate;			
✓	Notice of Hrg	Elmer and Julia entered into a trust designated as			
✓	Aff.Mail W	the ELMER V. AND JULIA B. FLY TRUST , in which they			
	Aff.Pub.	declared they held various assets as Trustees;			
	Sp.Ntc.	On 9/25/2000, Elmer and Julia executed an			
	Pers.Serv.	AMENDED AND RESTATED DECLARATION of the Trust			
	Conf. Screen	(copy attached as Exhibit A);			
	Letters	On 2/7/2008, Julia as Trustor and Trustee signed a			
	Duties/Supp	purported "Second Amendment" to the Trust (copy			
	Objections	attached as Exhibit A-1);			
	Video Receipt	On 3/24/2008, Attorney MELISSA WEBB with [Dowling Assess of the data of the dat			
	CI Report	Aaron], which firm drafted the Flys' restated Trust,			
	9202	met with Julia and at or following that meeting Julia			
	Order X	individually and as attorney-in-fact for Elmer			
	Aff. Posting	executed a "Third" Amendment to the Trust (copy	Reviewed by: LEG/KT/LEG		
	Status Rpt	attached as Exhibit A-2);	Reviewed on: 9/24/12		
	UCCJEA	The Third Amendment reversed the dispositive provisions of the Second Amendment and remains	Updates:		
	Citation	provisions of the Second Amendment and remains	Recommendation:		
	FTB Notice	the most recent amendment to the Trust; ~Please see additional page~	File 1C - Fly		

1C

First Additional Page 1C, Julia B. Fly (CONS/PE) Case No. 08CEPR00917

Respondent states, continued:

- Per the Restated Trust as amended by the Third Amendment, all assets are held in trust for the benefit of Elmer and Julia during their lifetimes and during the lifetime of the survivor; following Julia's death, the assets are to be distributed ½ to Ginger and ½ to the Settlor's three grandchildren, ERIC (RICK) GREGGAINS, JULIE BANKS and TINA COX in equal shares;
- Trust provides that on failure of the initial Trustees Elmer and Julia to act as Trustees, Ginger was to act as
 Successor Trustee, and the original Trust named JULIE BANKS, granddaughter, as an alternate, while the Third
 Amendment named Ginger's spouse, STEPHEN ROY GREGGAINS (Roy) as alternate successor trustee to Ginger;
- On 3/21/2008, Julia also executed a General Durable Power of Attorney (POA) (copy attached as Exhibit B),
 which designated Ginger as attorney-in-fact and Stephen as alternate agent;
- In December 2007, Elmer suffered a massive stroke and heart attack, and was moved several times to different care facilities due to his becoming violent and disruptive, and after a second heart attack, he was moved on 3/5/3008 to Alzheimer's Living Center at Elim ("Elim");
- In June 2008, after Julia's condition declined and was taken by ambulance several times to the hospital, she was required to live at Elim, as she could no longer live with Ginger and her husband in their home in the room they had prepared in August 2007 with safety rails and monitors for Julia and Elmer in the event they were no longer able to live independently;
- From the time of Elmer's hospitalization in December 2008, the family was constantly harangued by Ginger's daughter, **JULIE BANKS** and her husband **JOHN BANKS**, and they also had disrupted the living facilities, and had to be asked to leave or restricted from visiting Elmer and Julia at Elim;
- Elmer had asked John Banks after Elmer's hospitalization to remove guns from under Elmer's bed and put them
 in the gun safe at his residence; after the gun safe was checked at a later time, it was discovered the guns and
 \$5,000.00 cash in the safe was missing; this and the Banks' disruptive conduct caused Julia mental suffering and
 anguish;
- Ginger and her husband have at all times followed the advice of physicians, hospitals and care providers for the care of Elmer and Julia; Ginger's intent was always to keep them well cared for;
- As it became evident Elmer and Julia would not return to their own residence, Ginger and family members with
 concurrence of Julia began cleaning out the residence to prepare it for sale with proceeds to be used for their
 care if needed; 50 years of belongings were sorted through;
- Following Julia's hospitalization, Ginger paid Elmer and Julia's bills, as she was a joint account holder with Elmer and Julia that was previously established, and their monthly **\$4,700.00** in social security and pensions was deposited into the account which was used to pay their bills;
- Ginger's action was taken first as daughter to provide care for her parents, and as attorney-in-fact under the POA; she did not specifically take actions as Trustee though she was designated successor trustee;
- Medi-Cal planning to preserve assets: Ginger sought advice regarding Elmer qualifying for Medi-Cal and the
 Elim staff referred her to SOUTAS & ASSOCIATES; Ginger followed their recommendations to qualify Elmer & Julia
 to receive Medi-Cal for their continuing care; Ginger was advised in order to qualify Elmer & Julia to move a
 substantial portion of their liquid assets, make certain pre-need arrangements, and that other funds could be
 transferred by gift in ways that would not cause ineligibility for Medi-Cal;

Second Additional Page 1C, Julia B. Fly (CONS/PE) Case No. 08CEPR00917

Respondent states, continued:

- Julia agreed to the proposed plan and actions taken with her authorization included: prepayment of funeral expenses; payoff of loans, reimburse Ginger and her husband for remodeling expenses done for Elmer and Julia; purchase of annuity (\$159,983.79); payment of expenses and transfer of funds; and gifting totaling \$87,000.00 in amounts not exceeding \$5,000.00 to family members (during May, June and July 2008; please refer to summary of dates of gifts and donees attached as Exhibit C);
- Gifts were made to Ginger her husband Roy (\$69,000), Ginger's son Eric and his wife Trina (\$6,000), Ginger's daughter, Tina and her husband Curtis (\$12,000); because Julie Banks had removed herself from the family and adopted an adversarial position, Julie was not the recipient of any gifts;
- The funds gifted to Ginger and her husband were deposited into the account set aside for her parent's benefit at Washington Mutual and were used to pay certain expenses and costs; (please refer to summary of transactions in the Washington Mutual account containing the \$69,000 gifted funds to Ginger for the benefit of Elmer and Julia, attached as Exhibit E);
- Following appointment of Public Guardian as Conservator, the funds in the Washington Mutual account were
 transferred on 1/13/2009 to Deputy YOUA HER along with other accounts in Elmer and Julia's names;
 unfortunately, by transferring the funds back to Julia's name, the Flys no longer qualified for Medi-Cal;
- Allegations regarding personal property: In spring 2008, Ginger and family cleaned up the residence for sale, and held a yard sale where \$1,400 was received and paid to Eric and Tina and their spouses for the work in readying the property for sale; the payment of \$1,116 was for hauling away the remaining junk; this information is detailed in an email to Deputy Youa Her on 10/19/2008 (copy attached as Exhibit G); Ginger was acting within her POA authority in taking these actions;
- The vehicles were a 1994 truck which was given by Elmer and Julia gave to their grandson Rick and Rick's wife Trina insisted on paying \$800.00, and a check was given to Julia when she was managing her own finances; the 2004 Nissan Pathfinder was transferred to Trina in June 3008, as Julia signed it over to Ginger, but Ginger did not need it; the travel trailer acquired in 2006 for taking Julia and Elmer to Idaho had a loan balance due (purchase was made by turning in Ginger and Roy's own trailer as down payment) and per the Souta's recommendation the loan was paid off and trailer sold:
- Respondent (Ginger) is concerned that the Public Guardian's unwinding the annuity has been draining Julia's
 funds rather than having Julia's expenses paid in part by Medi-Cal, and that the funds will be dissipated more
 quickly than anticipated; Respondent has been advised that Elmer's pension could be received by Julia and
 provided this information to the Public Guardian, but they have failed to take action to secure these benefits;
- Respondent's defense to the accusations of breach of fiduciary duty: In all of Respondent's dealings she undertook whether under power of attorney or as trustee of her trust, she was in direct communication with her parents concerning the transactions; Julia was fully advised of the transactions and agreed to the gifts, to the Medi-Cal qualification and ratified the gifts and transactions taken on her behalf; Julia (the Conservatee) suffered no detriment as a result of the transactions and in fact Conservatee was benefited by enabling Medi-Cal qualification; at no time did Ginger act recklessly, wantonly or in bad faith, nor did she ever intend to deprive Julia of her property for any purpose; in all actions Ginger took on behalf of her mother and father, she acted with utmost good faith and fairness, with intent to enhance the quality of their living situation and to preserve their assets for their use; any actions taken were authorized under the POA, and all acts and transactions were reported to the Public Guardian Deputy Youa Her and information was fully and completely provided again and again;

Third Additional Page 1C, Julia B. Fly (CONS/PE) Case No. 08CEPR00917

Respondent states, continued:

- If the Court determines that in some manner Respondent breached her fiduciary duty by an act not authorized by the trust, the POA or by express consent of Elmer or Julia, Respondent requests that any such breach be excused per Probate Code § 16440(b) such that the financial benefit accruing to Elmer and Julia exceeded any possible loss that might have arisen as a result of Respondent's actions which were taken reasonably and in good faith;
- Conversion. Elder Financial Abuse. Constructive Trust: Respondent denies that any of her acts as set forth in the petition with respect to Julia's property constitute conversion as claimed and denies any liability therefor; Respondent denies any financial elder abuse, as Julia did not suffer diminished mental capacity and remained aware of her financial affairs; Respondent has made it known to the Public Guardian that Julia was distraught over actions of harassment and physical and financial abuse by the Banks, but they have taken no actions to explore the charges; Respondent denies that she has wrongfully taken, transferred, concealed or otherwise deprived Julia of funds or personal property and denies she is the voluntary trustee of said property;
- Respondent believes that Petitioner in bringing these allegations is bringing this petition in bad faith, despite
 having been in possession of the information set forth in this response, and the Public Guardian should be
 required to pay damages and attorney's fees to Respondent.

Respondent's Objection to Petition and to Conservator's Second Account:

- Respondent renews her objection to the Conservator's Second Account that the Conservator has failed to obtain survivor's benefits due to the Conservatee from the Veteran's Administration;
- Respondent further objects to the bringing of the petition in that at all times since Petitioner's appointment as
 Conservator, Petitioner has been in possession of much of the information which is once again requested in the
 petition;
- Respondent further objects to the Public Guardian's petition to the extent that the account requests attorney's
 fees (which will further dissipate the estate) for the research and bringing of such a petition which will not benefit
 the Conservatee and will further reduce the assets available for her care, now that the Public Guardian has
 decimated the Medi-Cal planning that would have preserved assets for the Conservatee's benefit.

Respondent requests:

- 1. That the information set forth herein be accepted by the Public Guardian, and that upon its review the Public Guardian determine that Respondent has adequately and fully accounted for actions taken on behalf of Elmer and Julia Fly;
- 2. That the request of the Public Guardian for damages of any sort whatsoever be denied;
- 3. That the Court ratify, confirm and approve all acts taken by Respondent whether as attorney-in-fact under the POA or as trustee of the Elmer V. Fly and Julia Fly Trust as set forth herein; and
- 4. That the attorney's fees necessarily incurred by Respondent in responding to the allegations of the petition be paid by Petitioner.

1D Julia B. Fly (CONS/PE)

Case No. 08CEPR00917

- Atty Motsenbocker, Gary L., sole practitioner (for Petitioner Public Guardian, Conservator)
- Atty Knudson, David, sole practitioner (for Respondent Virginia Greggains, daughter)
- Atty J. Stanley, Teixeira, sole practitioner (Court-appointed for Conservatee)
- Atty Thornton, Douglas V., of Perkins Mann & Everett (for Objector Julie Banks)

Petition Requesting Approval of Settlement Agreement in the Matter of: Petition Requesting Relief for Breach of Fiduciary Duty, and for an Accounting, and for Conversion of Personal Property, and for Elder Abuse, and for Damages

Age: 90 years	PUBLIC GUARDIAN, Conservator of the Person and	NEEDS/PROBLEMS/COMMENTS:
	Estate appointed 11/5/2008, is Petitioner.	
	Petitioner requests the Court approve the settlement	
Cont. from	agreement reached in this matter, based upon the	
Aff.Sub.Wit.	following:	
	This matter involved the management, disposition	
✓ Verified	and handling of the real and personal property of	
Inventory	ELMER G. FLY (DOD 11/8/2008), and JULIA B. FLY	
PTC No. Cro. d	(Conservatee), by their daughter, VIRGINIA	
Not.Cred. ✓ Notice of Hrg	"GINGER" GREGGAINS, Respondent;	
✓ Aff.Mail W/	On 8/21/1997, Elmer and the Conservatee	
Summons	executed a DECLARATION OF TRUST, ELMER V .	
✓ Sp.Ntc. W/	AND JULIA B. FLY, naming Respondent as	
Pers.Serv.	Successor Trustee; the Trust was amended several	
Conf. Screen	times, the latest being the Third Amendment	
Letters	 dated 3/24/2008; Pursuant to the Trust, all assets were to be held for 	
Duties/Supp	the benefit of Elmer and Julia during their lifetimes	
✓ Objections	and the lifetime of the survivor; following the	
Video Receipt	death of the survivor, the assets are distributed ½	
CI Report	to Settlors' daughter Virginia, and ½ to Settlors'	
9202	three grandchildren, ERIC ("RICK") GREGGAINS,	
✓ Order	JULIE BANKS, and TINA COX, in equal shares;	
Aff. Posting	On 3/21/2008, Julia executed a General Durable	Reviewed by: LEG
Status Rpt	Power of Attorney designating Ginger Greggains	Reviewed on: 9/24/12
UCCJEA	to act as attorney-in-fact; STEPHEN ROY	Updates:
Citation	GREGGAINS, Ginger's husband, was designated	Recommendation:
FTB Notice	as alternate attorney-in-fact;	File 1D - Fly
	~Please see additional page~	
		10

1D

Petitioner states, continued:

- Interested parties, including granddaughter Julie Banks, questioned Greggains' motives for her handling of
 Elmer and Julia's finances, her placement of Elmer and Julia in a care facility, the proposed sale of the Flys'
 residence, and the purchase of an annuity; at the request of Julie, proceedings initiated by the PUBLIC
 GUARDIAN as Conservator of the person and estate of Julia against Greggains for financial mismanagement,
 alleging breach of fiduciary duty and contending the disposition of the couple's assets were ill-advised and in
 contravention of the Flys' estate plan and existing Trust; Julie Banks insisted a formal accounting was necessary;
- Greggains response detailed the actions taken with the Flys' resources, with respect to Medi-Cal planning, and
 the purchase of the annuity; she provided an accounting of funds in her possession that were transferred or
 used for the benefit of Elmer and Julia, and an accounting of funds turned over to the Public Guardian; she
 objected to the Public Guardian's actions in changing the Annuity making Julia ineligible for Medi-Cal and to
 the Public Guardian's accounting and fees requested;
- Following several meetings between counsel and clients, the parties concluded it was in the best interest of the
 Conservatee and her estate that this matter be settled; it became apparent after lengthy discussions that
 Greggains had little or no liquid assets, the her real property was encumbered in excess of its fair market value,
 and her only source of income was Social Security benefits, such that she was in effect "judgment proof," and it
 became apparent that trial costs and expenses would be substantial and could be borne by the estate of the
 Conservatee, thus unnecessarily depleting her assets.

Petitioner states the parties entered into an agreement to settle and compromise in full the dispute by and between the Public Guardian and Greggains in order to avoid further expense, acrimony and controversy in regard to all issues raised and alleged; (copy of the fully executed Mutual General Release and Settlement Agreement is attached as Exhibit A); a brief summary follows:

- (a) Any funds remaining in the Conservatorship estate upon Julia Fly's death, including any proceeds payable on the annuity contract, after payment of fees, costs and expenses, shall be paid to the named Trustee of the Trust to be distributed as part of the Trust;
- (b) The Public Guardian as Conservator of the Person and Estate of Julia withdraws and dismisses with prejudice its Petition Requesting Relief for Breach of Fiduciary Duty, etc., and the Public Guardian waives any further accounting by Respondent Greggains as Trustee of the Trust or as Attorney in Fact for Julia;
- (c) Respondent withdraws and dismisses with prejudice her Objections to the Conservator's Second Account and for payment of attorney fees, Conservator fees and costs, and any and all objections which may be deemed in nature of a cross-complaint raised in her response;
- (d) Public Guardian agrees that it will initiate no further actions or complaints, nor initiate any other proceedings in this matter as to Respondent, including any civil and/or criminal actions.

Petitioner prays for an Order that:

- 1. The settlement of this matter is approved as prayed;
- 2. Any funds remaining in the Conservatorship estate upon the death of the Conservatee shall be paid to the Trustee of the **Elmer V. and Julia B. Fly Trust**, and that Respondent is to [agree] that any funds received by her, no matter the source, shall be paid to and held by the Trustee of the Trust;
- 3. The petition filed by the Public Guardian is dismissed with prejudice and any further accounting by Respondent is waived;

Petitioner prays for an Order, continued:

- 4. The objections of the Respondent are withdrawn and dismissed with prejudice as to the Conservator's second account and for payment of attorney's fees and costs, as well as all objections raised by the Respondent in her response to the Public Guardian's petition and any and all objections raised by her which might be deemed in the nature of a cross-complaint; and
- 5. The Public Guardian shall initiate no further actions or complaints or other proceedings in that matter as to the Respondent as to the rights or damages allegedly sustained by the Conservatee.

Objection to Petition Requesting Approval of Settlement Agreement in the Matter of Petition for Relief for Breach of Fiduciary Duty; for an Accounting; for Conversion of Personal Property; for Elder Abuse; and for Damages filed on 9/21/2012 by JULIE BANKS, granddaughter of Conservatee, states:

- She objects to the settlement agreement [statements of factual background omitted];
- In the spring of 2008, following Elmer's stroke and heart attack and move into the Alzheimer's center at Elim, Greggains purportedly determined that Elmer and Julia would not be able to return to their residence and began a systematic theft of all of their property; as part of that scheme, on 3/21/2008, Greggains caused Julia to execute a General Durable Power of Attorney, designating Greggains as attorney-in-fact, and STEPHEN ROY GREGGAINS, (Ginger) Greggains' husband, was named as alternate attorney-in-fact;
- 1. Theft of Cash through purchase of Annuity: After obtaining the Power of Attorney, Greggains contacted SOUTAS & ASSOC. (S&A) for the purported reason to qualify Elmer and Julia for Medi-Cal for the cost of their care; in reality it was to further her scheme to take assets out of the Trust, to countermand the inheritance directions of Julia and Elmer, and ultimately put money in her own pocket; the Annuity application submitted by Greggains on 3/29/2008 reveals that Greggains purchased a \$159,983.79 Annuity and she and her husband (Stephen) listed themselves as the primary and contingent beneficiaries to the Conservatee, and did not list Settlor's grandchildren as instructed, nor was the beneficiary listed as the Trust as Greggains stated to the Court in a lie on 8/25/2008 (copy of Reporter's Transcript attached as Exhibit D to the Declaration of Julie Banks in Support of Objection to Petition Requesting Approval of Settlement Agreement filed 9/21/2012); Greggains elected the Annuity to pay out ~\$10.00 per month with the balance to be paid in 5 years, in order to maximize the benefit to her and her husband; Greggains' plan was obvious: take the money out of the Trust and hope that Julia and Elmer pass away before the Annuity matured; an Annuity that paid out \$10.00 per month was not appropriate for a couple with substantial needs in their twilight years.
- 2. Theff of Conservatee's vehicles: In 2008, Conservatee and Elmer owned and possessed a Nissan Pathfinder (~2004 model), and Objector believes that Greggains transferred the Pathfinder to her son, ERIC GREGGAINS, without value;
- 3. Theft of Conservatee's furnishings and personal belongings: Greggains and her close family took and either sold or kept for themselves the furnishings and personal belongings of Conservatee; Objector believes the Inventory filed by the Public Guardian does not include furnishings and personal property of ~\$75,000.00 (Declarations previously filed with Court on 10/10/2008 and 10/15/2008 listing the property are attached as Exhibits B and C to Banks' Declaration);
- **4. Theft of Nevada property:** Conservatee and her husband own 40 acres of land in Nevada, per the parcel number indicated on the property profile of the Annuity application dated 4/24/2009; even though the County of Fresno and Greggains is aware of the Nevada property, it is mysteriously absent from the Inventory without explanation;

Objection to Petition filed on 9/21/2012 by JULIE BANKS, continued:

- 5. Greggains' Embezzlement and Misuse of the Conservatee's Estate: Based upon the either missing from the Inventory or simply stolen, there is considerable concern that Greggains has absconded with additional money and personal property, and she cannot be trusted and should not receive a release or dismissal with prejudice of the petition; examples include the Inventory showing cash of \$10,660.20 as of 9/12/2008, but the Annuity application showing cash and securities of \$283,000.00 on 5/29/2008; even with the \$159,983.79 Annuity purchase, there is still an evaporation of funds of \$112,356.01 that is missing and unexplained; Greggains also stated to the Court on 8/25/2008 that Conservatee had \$60,000.00 in a checking account, two weeks prior to the 9/12/2008 application; additionally, Greggains again lied to the Court on 8/25/2008 in stating the Flys' residence sale had not closed in responding that just an offer was made that was not accepted, while the Purchase Agreement (attached as Exhibit F to Banks Decl.) shows the purchase was signed on 8/21/2008, a mere four days before the hearing, so Greggains knew the purchase was signed on Monday and the hearing was on Thursday (see copy of 8/25/2008 Reporter's Transcript attached as Exhibit D to Banks' Declaration);
- 6. Theff in the form of Financial Gifts and Monies used for Greggains' own purpose: Greggains gifted at least \$77,000.00 to herself and other chosen family members during May and June 2008 (see copies checks written by Greggains for gifts to relatives attached as Exhibits G and H); and Greggains used estate money to pay off her travel trailer (\$15,288.71), a down payment for Jeep Liberty for herself and her husband (\$4,000.00), room remodel reimbursement done long before Flys' illness (\$6,248.20), and a carport built in Greggains' backyard for their cash business "Bear Critters" (\$7,000.00).

Objector's Argument:

(A) The Settlement Agreement Exonerates Elder Abuse: Since October 2008, Fresno County has possessed substantial evidence showing Greggains and Stephen committed both civil and criminal crimes of Elder Abuse; Public Guardian retained Attorney Motsenbocker to investigate the allegations and collectability of an action against them; Motsenbocker filed the Petition Requesting Relief for Breach, etc. after reviewing the evidence and financial resources of the proposed defendants; after further depleting the estate, Motsenbocker is seeking to settle the case with both a civil and criminal exoneration for Greggains and Stephen; the settlement agreement is apparently based on the lack of financial wherewithal of Greggains and Stephen, even though there is substantial evidence of Elder Abuse.

The motion to approve the settlement should be denied for the following reasons:

- There is no basis to provide the dismissal with prejudice; should Greggains and Stephen obtain significant
 financial resources, the Public Guardian should retain the right to collect the money and property that
 has been stolen; it would be more appropriate to dismiss the case without prejudice and sign a tolling
 agreement so that the claims do not lapse;
- 2. The settlement agreement provides that Greggains and Stephen will avoid criminal prosecution for their illegal acts because of lack of funds; it would be analogous to a government agency that refuses to file criminal charges against a bank robber because he has spent all of his ill-gotten gains and is again impoverished; Greggains and Stephen are the poster child of individuals that are callous enough to steal from their own parents; if the civil claims are dropped, this matter should be referred to criminal prosecution since it would not be a further drain on the Estate, nor is it dependent on the finances of the defendants; criminal exoneration will only condone the actions of Greggains and Stephen.

Objector's Argument, continued:

- (B) The County Failed to do any Due Diligence of the Defendants Financial Wherewithal: Prior to filing the petition, Motsenbocker represented to Deputy Youa Her that the defendants had the financial wherewithal to satisfy the proposed claims; without explanation, the settlement agreement and motion accept as a fact that Greggains and Stephen have no source of income other than social security and their house is under water; however, there is no evidence that the County performed any due diligence concerning the defendants earning ability or assets; as set forth in [Exhibit 1] to the Declaration of Julie Banks [filed 9/21/2012] , the defendants have a cash business selling carved wooden bears and other critters to the public, and in fact they used a portion of the stolen Estate money to make improvements to their garage from which to run the business; the motion and settlement agreement accept as a fact a statement from the defendants that they have no assets or income, and this type of blind devotion is not prudent when the statement is coming from the very parties accused of committing Elder Abuse crimes; additionally, there is no accounting of the items that were stolen; who owns the property in Nevada? Why hasn't there been a request that the individual family members of the defendants that received the stolen money and property return the same to the estate? The County knows the check numbers, amounts and recipients, but has the County taken the depositions of defendants or hired an asset investigation company to review the matter? A settlement without adequate investigation is foolhardy at best.
- (C) The Settlement is not in the Best Interest of the Estate: It appears that the settlement is partially motivated to protect the interests of the County from liability; is the County really concerned that the "impoverished defendants" have the means to prosecute the County for damages? Does the County have liability for actions that it took, or more importantly, did not take? If that is so, should the County give a free pass to the defendants in order to escape liability when there is substantial evidence of their wrong-doing? Should the County and its agents be paid for depleting the Estate's resources without anything accomplished for the Estate? It is obvious that the answer to these questions is a resounding "No."

Objector concludes: Elmer and Julia Fly had plenty of assets and no debts; they should have been able to live comfortably through these difficult times and now, according to the Inventory and Appraisal, in just 9 months of Elmer's illness, all that they saved and accumulated for 68 years is almost gone; it makes no sense; this settlement agreement is fundamentally flawed and should not be approved.

Atty

Moore, Susan L. (for Janelle Bowman – Executor – Petitioner)
(1) Petition for Settlement of First and Final Account, (2) Petition for Final Distribution and for (3) Allowance of Compensation for Ordinary and Extraordinary Services (Prob. C. 11640)

DOI	· 5-25-07		JANELLE BOWMAN, Executor with Full IAEA without bond,	NEEDS/PROBLEMS/
DOD: 5-25-07			is Petitioner.	COMMENTS:
			Accounting: \$175,000.00	
			Beginning POH: \$175,000.00	
	Aff.Sub.Wit.		Ending POH: \$18,371.82 (cash)	
		1	Evo outer (Statuten d. \$1,070,00	
V	Verified	1	Executor (Statutory): \$1,060.00	
7	Inventory PTC		Attorney (Statutory): \$1,060.00	
7			- Tallettie y (Granerei y y 1 y 1 y 2 2 2 2 2 2 2 2 2 2 2 2 2 2	
~	Not.Cred.	<u> </u>	Attorney (Extraordinary): \$4,570.00	
<u>~</u>	Notice of Hrg		for extraordinary services to recover possession of the	
H	Aff.Mail	W	real property (14.3 hours), and to secure and sell the real	
\vdash	Aff.Pub.	<u> </u>	property (2.9 hours)	
$\models \vdash$	Sp.Ntc.	<u> </u>	Closing: \$800.00 (reserve for taxes/misc.)	
\vdash	Pers.Serv.	<u> </u>	- Ciosii ig. φοσοίου (ιοσοί νο τοι ταλοσ/11 lise.)	
	Conf. Screen Letters	7-20-09	Attorney Moore's Declaration states unlawful detainer	
H		7-20-07	was necessary to remove occupants Beverly Day and	
	Duties/Supp Objections		Nancy Rozidilla, two of the beneficiaries who had been	
	Video Receipt	<u> </u>	allowed to continue their residence at the property for	
			more than two years after their mother's death. THe	
~	CI Report 9202	<u> </u>	declaration states that after the estate recovered possession, the two continued to reside in a van on the	
V	9202 Order	<u> </u>	property and were believed to have been going in and	
H	Aff. Posting		out of the home through a window, requiring another	Reviewed by: skc
	<u>~</u>		writ of possession, lockout, and turnover of possession to	Reviewed by: 3RC
	Status Rpt UCCJEA		the estate. Because the personal representative lives out	Updates:
	Citation		of state, Attorney Moore worked with real estate agents	Recommendation:
~	FTB Notice	<u> </u>	and contractors for the sale and avoided a 6%	File 2 - Day
			commission on the sale.	
			Petitioner requests that such extraordinary fees	
			expended to recover possession of the property from	
			Beverly Day and Nancy Day be charged against their	
			distributable share of the estate, which amount is	
			\$3,772.50 in attorney fees plus \$770.84 in costs, for a total	
			of \$4,543.34. However, since that amount exceeds their	
			shares, Petitioner requests that their shares be abated in	
			their entirety and the distributable balance be distributed among the remaining beneficiaries.	
			asinotica arriorig incremail il ig perioricales.	
			Distribution pursuant to Decedent's will, Notice of Lien	
			filed 7-16-12, and request for abatement:	
			Janelle Bowman: \$3,627.27	
			Laura Lee Flores-Wheeler: \$3,627.27	
			Eileen Lindsey: \$1,813.64 Shanna Johnston: \$1,813.64, less \$151.65 payable to the	
			Victim Compensation and Government Claims Board	
		<u> </u>	Tremm Compensation and Covernment Claims board	2

Cooper, Joseph D. (for Petitioner/Adminstator Shelby Benson)

(1) Amended Administrator's Petition for Waiver of Accounting, (2) Statutory Attorney Fees, and (3) Final Distribution Under Probate Code 11600

DOD: 5/11/2006	SHELBY BENSON, Administrator with	NEEDS/PROBLEMS/COMMENTS:
	bond of \$154,000.00, is petitioner.	CONTINUED FROM 07/25/12
		As of 09/20/12, the following comments remain:
	Accounting is waived. Petitioner states	1. Beneficiary Catherine Laurie died on 1/26/2010,
Cont. from 052212,	that beneficiary Catherine Laurie died	after the decedent. Pursuant to Probate Code
062512, 072512	intestate after the decedent. No	10954(b)(5) if the person entitled to distribution in
	formal probate has or will be	an estate is deceased, the waiver of account
Aff.Sub.Wit.	conducted for Catherine Laurie. All of	shall be executed <u>by the personal</u>
✓ Verified	= Catherine Laurie's heirs at law have	representative of the estate. Petitioner states
✓ Inventory	signed waivers of accounting and an	that no administration for the estate of
/ PTC	Affidavit Pursuant to Probate Code §	Catherine Laurie is or will be conducted and
V FIC	= 13100-13115.	has provided waivers of account signed by the
✓ Not.Cred.	10100 10110.	intestate heirs of Catherine Laurie - Gerald
Notice of the V	- 	Laurie, Tyler Laurie, and KC Dotson. Need
Notice of Hrg X	POH - None	authority allowing the intestate heirs of a deceased beneficiary to waive accounting.
Aff.Mail X	(distributed without a court order)	2. The Amended Petition states that 1/3 of the
Aff.Pub.	(distributed will four a coort order)	estate was distributed to Catherine Laurie and
Sp.Ntc.	Administrator - waives	that Catherine Laurie died after the decedent.
Pers.Serv.	- Administrator - waives	The Petitioner states that an Affidavit Pursuant to
Conf. Screen	Attornov \$1.495.04	Probate Code § 13100-13155 was signed by
Letters 5/12/11	Attorney - \$6,685.96	Catherine Laurie's heirs as the successors to her
Duties/Supp	(statutory)	interest in the estate. The Court may require
	61 010 04 /5-11	authority allowing such a distribution as part of
Objections	Costs - \$1,218.84 (for	the administration of this estate.
Video Receipt	filing fees, publication, notary fees,	3. The Amended Petition states that distribution
CI Report	copy and courier costs)	has been made of <u>all</u> the assets of the estate to
√ 9202		the three beneficiaries pursuant under IAEA;
√ Order	Distribution, pursuant to intestate	however, Probate Code § 10501 lists preliminary
Older	succession, is to:	and final distributions as actions requiring court supervision. Probate Code § 11623 states the
		personal representative may <u>petition the court</u>
	Shelby Benson - \$63,177.28	for authority to make preliminary distributions.
	(1,550.33 shares)	However the aggregate of all property
		distributed shall not exceed 50% of the net
	Catherine Laurie - \$63,177.28	value of the estate. <u>In this case the Petitioner</u>
	(1,550.33 shares)	distributed all of the assets of the estate and did
		not petition the court for authority to make
	David Blesh - \$63,177,28	preliminary distributions.
	_ (1,550.33 shares)	Please see additional page
Aff. Posting	_	Reviewed by: JF
Status Rpt		Reviewed on: 09/20/12
UCCJEA		Updates: 09/24/12
Citation	_	Recommendation:
✓ FTB Notice		File 3 - Blesh
		3

3 (additional page) Margaret Irene Blesh (Estate)

Case No. 10CEPR00944

NEEDS/PROBLEMS/COMMENTS (continued):

- 4. The cost reimbursement request includes \$34.99 for copy and courier costs. Pursuant to Local Rule 7.17 B, these costs are considered by the Court to be part of the cost of doing business and are not reimbursable costs or fees.
- 5. Proof of service filed with the Notice of Hearing on 09/21/12 indicates that the Notice of Hearing was served on interested parties on 09/21/12. Service must be 15 days prior to the hearing pursuant to Probate Code § 11000(a) & 1220.

Atty

Moore, Susan L. (for Anna E. Barnett – Administrator – Petitioner)

(1) Petition for Settlement of First and Final Account (2) Petition for Final Distribution and for (3) Allowance of Compensation for Ordinary Services (Prob. C. 11640)

DO	D: 2-2-12		ANNA E. BARNETT, Administrator with Full	NEEDS/PROBLEMS/COMMENTS:
			IAEA without bond, is Petitioner.	
			Account period: 2-2-12 through 8-17-12	
			Accounting: \$353,283.52	
	Aff.Sub.Wit.		Beginning POH: \$339,662.64	
~	Verified		Ending POH: \$102,379.82	
~	Inventory		(\$101,379.82 cash plus household goods	
~	PTC		and furnishings)	
~	Not.Cred.		Administrator: Waives	
>	Notice of Hrg			
~	Aff.Mail	W	Attorney (Statutory): \$10,065.67	
	Aff.Pub.		Clasina: \$1,200,00	
	Sp.Ntc.		Closing: \$1,200.00	
	Pers.Serv.		Distribution pursuant to intestate succession:	
	Conf. Screen			
~	Letters	4-17-12	Christie Barnett: \$45,057.07 plus one half of	
	Duties/Supp		the household goods and furnishings	
	Objections		Ashley Barnett: \$45,057.07 plus one half of	
	Video		the household goods and furnishings	
	Receipt			
-	CI Report 9202			
, , , , , , , , , , , , , , , , , , ,	Order			
	Aff. Posting			Reviewed by: skc
	Status Rpt			Reviewed on: 9-20-12
	UCCJEA			Updates:
	Citation			Recommendation: SUBMITTED
~	FTB Notice			File 4 - Barnett

Case No. 12CEPR00710

5 Atty Atty

James Merle Waer (CONS/PE)

Kruthers, Heather H. (for Public Guardian – Petitioner)

Bagdasarian, Gary G. (Court-appointed for Conservatee)

Petition for Appointment of Probate Conservator of the Person and Estate (Prob. C. 1820, 1821, 2680-2682)

Age	e: 85		TEMPORARY EXPIRES 9-26-12	NEEDS/PROBLEMS/COMMENTS:
			PUBLIC GUARDIAN is Petitioner and requests appointment as conservator of the person and estate.	Court Investigator Advised Rights on 9-19-12.
	Aff.Sub.Wit.		Voting rights NOT affected	Need clarification: The petition indicates a request
~				for additional powers pursuant to Attachment 1.I.;
Ě	Verified		Estimated Value of Estate:	however, there is no
	Inventory		Personal Property: \$ 50.61	attachment. Are additional
	PTC		<u>Annual Income: \$35,345.88</u> Total: \$35,396.49	powers requested?
~	Not.Cred.		101αι. φου,570.47	2. <u>Need clarification</u> : The
¥	Notice of Hrg		Petitioner states Mr. Waer (85) is currently living	petition does not request
Ľ	Aff.Mail	W	independently in his own apartment, and is able to	medical consent or dementia medication and/or
	Aff.Pub.		dress and groom himself without assistance; however,	placement powers; however,
	Sp.Ntc.		Mr. Waer displays bad judgment on a number of issues. He has a tendency to accept rides from	according to the Court
~	Pers.Serv.	W	people he does not know well and reveals financial	Investigator's report, Petitioner had scheduled Mr. Waer
	Conf. Screen		information to them, which could endanger him. He	dementia evaluation, and
~	Letters		has allowed a friend to move in with him that is a	teeth pulled for dentures, at a
	Duties/Supp		registered sex offender. Mr. Waer states this friend	cost of approx. \$2,000.00.
	Objections		assists him by cooking and cleaning; however, inspection revealed minimal food in the apartment.	If medical consent and
	Video		Mr. Waer is not capable of preparing his own meals.	dementia medication and/or
	Receipt		Conservatorship will ensure that Mr. Waer's medical	placement powers are
_	CI Report		and personal needs are continuously met. He would	<u>requested</u> , need Amended Petition with Mandatory
	9202		benefit from placement in a setting where he will	Judicial Council Form GC-
•	Order		receive supervision and proper care in the least	313A (<u>dementia request</u>
			restrictive setting.	attachment) and amended service; and
			Petitioner also states Mr. Waer is unable to manage	A Capacity Declaration will
			his own finances and resist undue influence. After his wife's death eight years ago, he was assisted by	need to be filed to support
			family. However, they stopped assisting him when he	findings pursuant to Probate
	Aff D. I'		allowed the "friend" to move in. Mr. Waer now	Code §2356.5.
	Aff. Posting		disregards his son Tim and calls this man his son.	Reviewed by:
	Status Rpt		Dottion or states Adv March states and an and an area and a second and	Reviewed on:
	UCCJEA		Petitioner states Mr. Waer does not appear to have many expenses, yet his bank account is depleted,	Updates:
Ě	Citation FTB Notice		and he has repeatedly relied on cash advance	Recommendation: File 5 - Waer
	LID MONCE		companies to meet his bills. He has no recollection of	THE 3- Waler
			signing his car over to his friend.	
			Count Investigants units Normala filed a versal are 0.10	
			Court Investigator Julie Negrete filed a report on 9-19-12.	
			SEE PAGE 2	
			JLL I AGL Z	

Court Investigator Julie Negrete filed a report on 9-19-12. The report states Mr. Waer objects to conservatorship; however, both of his children agree, noting that the doctor at the VA hospital previously noted signs of dementia, and that he has declined since the death of their mother. Mr. Waer reports that he had a seven year relationship with Louis Rodriguez, and whatever he did for Louis was because he wanted to do it for him. Regarding the vehicle, he does not care that Louis did not pay him for it, and he has been trying to get it out of impound.

Deputy Public Guardian Renee Garcia reported that Mr. Waer is scheduled for a dementia evaluation 10-1-12 at the VA, and also that he needs to have his teeth pulled for dentures, at an approx. cost of \$2,000.00. She is looking into in-home care as he wants to remain in his home. She is seeking community resources for Mr. Waer and places where he could make some friends.

The Court Investigator states based on the information received, conservatorship appears to be in Mr. Waer's best interest and recommends the Petition be granted; however, a capacity declaration has not been submitted.

Declaration filed 9-24-12 by Attorney Bagdasarian, Court-appointed counsel for Mr. Waer, states:

- The petition does not contain and the attorney has not received an Attachment Requesting Medical Consent or Dementia Medication and/or placement powers or a Capacity Declaration
- Attorney Bagdasarian met with Mr. Waer on 9-21-12 at his apartment. Mr. Waer was strongly against the
 imposition of conservatorship of his person or his estate, and indicated that he was able to obtain his own food
 and cook same, and was able to use the bus service to get to any place he needed to go. He also indicated
 he would take care of any bills that he had to write checks for.
- Mr. Waer could not explain exactly to whom the vehicle was titled, other than to indicate that he was in the
 process of selling the vehicle to his friend. He indicated that the vehicle was impounded, but did not know why,
 and that Louis Rodriguez had indicated that if he provided license, proof of insurance, and payment of funds,
 the vehicle would be released.
- Mr. Waer indicated that he enjoyed living at his apartment. Attorney Bagdasarian met a neighbor who
 indicated he had befriended Mr. Waer, and that Mr. Waer needed the attorney's help to remain in the
 apartment. Mr. Waer related many stories of his WWII experiences, and also the benefits that he felt had been
 provided by Mr. Rodriguez.
- When asked about his income, Mr. Waer could not identify where the balance of his funds was spent after
 payment of household expenses, and indicated that he had to obtain cash advance loans in order to pay his
 monthly expenses.
- Based on observations, and although Mr. Waer was adamantly against the Fresno County Public Guardian being the Conservator of his Person or Estate, Attorney Bagdasarian would recommend that, pending the receipt of the Capacity Declaration and other information in connetion with the request of the Public Guardian with regard to any determined dementia, that the temporary conservatorship remain in place.

Atty Fogderude, Eric K. (for Michael Karastathis, Trustee – Petitioner)

Petition to Determine Succession to Real Property (Prob. C. 13151)

DOD: 05/11/12 MICHAEL M. KARASTATHIS, SUCC			MICHAEL M. KARASTATHIS, Successor Trustee	NEEDS/PROBLEMS/COMMENTS:
			of The Karastathis Family Trust dated 11/24/01,	
			is Petitioner.	
Col	nt. from		40 days since DOD.	
	Aff.Sub.Wit.			
√	Verified		No other proceedings.	
	Inventory		I & A - \$50,000.00	
	PTC		1 & A - \$50,000.00	
	Not.Cred.		Will dated 11/24/01 devises estate to the	
✓	Notice of Hrg		Trustee of The Karastathis Family Trust.	
√		w/o	,	
	Aff.Pub.	, -	Petitioner requests Court determination that	
	Sp.Ntc.		decedent's 100% interest in real property	
	Pers.Serv.		located at 5188 E. Ashlan #132, Fresno, CA	
	Conf. Screen		pass to him pursuant to decedent's Will.	
	Letters			
	Duties/Supp			
	Objections			
	Video			
	Receipt			
	CI Report			
	9202			
✓	Order			
	Aff. Posting			Reviewed by: JF
<u> </u>	Status Rpt			Reviewed on: 09/20/12
	UCCJEA			Updates: 09/25/12
	Citation			Recommendation: SUBMITTED
	FTB Notice			File 6 - Karastathis

6

7 Atty

Flanigan, Philip M. (for Barbara M. Brown – spouse/Petitioner)

Petition for Probate of Will and for Letters Testamentary; Authorization to Administer Under IAEA (Prob. C. 8002, 10450)

DOD: 04/06/12	BARBARA M. BROWN, spouse, is Petitioner, and requests appointment as Executor	NEEDS/PROBLEMS/COMMENTS:
	without Bond.	CONTINUED TO 10/31/12
Cont. from	Full IAEA – NEED	Per Request of Counsel
Aff.Sub.Wit. Unk. Verified Inventory PTC Not.Cred. Notice of Hrg × Aff.Mail ×	Will dated: NEED Residence: Clovis Publication: NEED Estimated Value of the Estate: Personal property - \$212,511.90	 No copy of the Will is attached to the Petition. Need copy of Will. Note: It also does not appear that the original Will of William K. Brown, III has been deposited with the Court. Need affidavit of Publication. Need Notice of Petition to Administer Estate and proof of service by mail of Notice of Petition to Administer Estate
Aff.Pub. × Sp.Ntc. Pers.Serv. Conf. Screen Letters × ✓ Duties/Supp Objections Video Receipt CI Report 9202 Order ×	Probate Referee: STEVEN DIEBERT	on all interested parties pursuant to Probate Code § 8110. 4. Need Order. 5. Need Letters.
Aff. Posting		Reviewed by: JF
Status Rpt		Reviewed on: 09/20/12
UCCJEA		Updates: 09/24/12
Citation		Recommendation:
FTB Notice		File 7 - Brown

8 Atty

Flanigan, Philip M. (for Pat Gazda – Conservator – Petitioner)

Probate Status Hearing: Failure to File Annual or Biennial Account

Age:	PATRICIA A. GAZDA, Sister, was appointed	NEEDS/PROBLEMS/COMMENTS:
	Conservator of the Estate on 12-8-11, with funds to be placed into a blocked	Note: The Special Needs Trust established
	account.	9-6-12 was assigned case number 12CEPR00826. A status hearing is set for 1-
Cont. from	On 7-16-12, the Court set this status hearing	4-13 for filing of the I&A in that case.
Aff.Sub.Wit.	for failure to file an account.	1. Need account.
Verified	I&A filed 7-31-12 reflects a total	i. Need account.
Inventory	conservatorship estate value of \$98,846.00.	
PTC Not.Cred.		
Notice of Hrg	On 9-6-12, the Court approved the	
Aff.Mail	establishment of a Special Needs Trust for the Conservatee with Inland Counties	
Aff.Pub.	Regional Center, Inc., as Trustee.	
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video		
Receipt		
CI Report		
Order		
Aff. Posting		Reviewed by: skc
Status Rpt		Reviewed on: 9-20-12
UCCJEA		Updates:
Citation		Recommendation:
FTB Notice		File 8 - Allen

Atty Atty

9

Arroyo, Roberto U. (Pro Per – Guardian – Petitioner)

Ex Parte Petition for Modification of Visitation

	len (11)		DOLORES and ROBERTO ARROYO , Paternal Grandparents	NEEDS/PROBLEMS/
Rob	erto (14)		and Guardians, are Petitioners.	COMMENTS:
*	Aff.Sub.Wit. Verified Inventory PTC Not.Cred. Notice of Hrg Aff.Mail Aff.Pub. Sp.Ntc. Pers.Serv. Conf. Screen	X	Father: Robert Uribe Arroyo, Jr. Mother: Leona Chantel Andrada Maternal Grandfather: Gary Andrada Maternal Grandmother: Donna Silvera Andrada Petitioners filed an Ex Parte Petition for Modification of Visitation on 9-13-12. The Court set the matter for hearing and set notice to Petitioners on 9-13-12. Petitioners state request that the father have the children at the soccer game on time, which is one hour before games start. Games start at different times and they will provide the father with the schedules.	Note: Per Court order on 8-7- 12 regarding the father's petition for visitation, the father has visitation on 1st, 3rd, and 5th weekends from Friday 7pm to Sunday 7pm, and a holiday schedule that includes 1 week with during Christmas break and the whole month of July. 1. Need Notice of Hearing. 2. Need proof of service of Notice of Hearing at least 15 days prior to the
	Letters		Petitioners also request that if either or both of the children do not wish to visit on the dates allowed by the Court,	hearing on Robert Uribe Arroyo, Jr. (Father).
	Duties/Supp		that they should be able to say they don't want to go.	Alloyo, Jr. (rainer).
	Objections Objections		They are old enough to decide. The father has a	
	Video Receipt		tendency to tell them they have to go by force, and for	
	CI Report		the whole month of July, the children should be able to call if they need to come home. They have a cell phone.	
	9202		call il litey fleed to corrie florrie. They flave a cell phone.	
	Order	Χ	Declaration filed 9-21-12 states Petitioners apologize for	
	Aff. Posting		needing to modify the order so soon. The father felt it was	Reviewed by: skc
	Status Rpt		amusing to say he didn't bring Jaden to his game	Reviewed on: 9-20-12
	UCCJEA		because it wasn't stated on the minutes. To answer the	Updates:
	Citation		comment made about "the family" hating Petitioner	Recommendation:
	FTB Notice		Dolores – The reason they stayed away was for Robert, as he was always crying about his toys being broken, or they were hurting him, and it was best to stay away. Petitioners didn't realize he formed a relationship with "the family" and now understands that he feels tricked into signing the children over. Petitioner states she has 10 wonderful years with her grandchildren. She never said her son wasn't a good father – just that he was too rough. He would hit Robert with the belt any time he looked at Dolores or asked for her. Robert is 14 now and enjoys visiting, and Jaden is 11 and still wants his mom and dad.	File 9 - Arroyo
			The request is to please include in the minutes that Robert bring the boys to the games, and if they don't want to go, they are allowed to say no.	

Atty Clinton, Sharon (Pro Per – Paternal Grandmother – Petitioner)

Atty Abrahamian, Laura Levona (Pro Per – Maternal Great-Aunt – Current Guardian)

Petition for Appointment of Guardian of the Person (Prob. C. 1510)

Sean (12)		SHARON CLINTON, Paternal Grandmother, is	NEEDS/PROBLEMS/COMMENTS:
		Petitioner.	These petitions pertain to Sean only.
		LAURA ABRAHAMIAN, Maternal Great-Aunt, was appointed Guardian on 10-11-07. - Personally served 9-4-12	Page 10B is the related petition to terminate the existing guardianship.
	Aff.Sub.Wit.	- Felsonally served 9-4-12	
>	Verified	Father: HANS MATHEUS	History: Laura Abrahamian was appointed guardian of all three minors
	Inventory	- Consent and Waiver of Notice filed 9-12-12	on 10-11-07. Petitioner Sharon Clinton
	PTC		was appointed Successor Guardian of
	Not.Cred.	Mother: SARA ABRAHAMIAN	Sabrina only on 2-9-12, and the two
>	Notice of Hrg		younger siblings, including this minor, remained with Ms. Abrahamian. At a
		Paternal Grandfather: Deceased Maternal Grandfather: Robert Abrahamian	hearing on 7-17-12, the Court ordered
	Aff.Pub.	Maternal Grandmother: Susan Nunez	supervised visitation between the
	Sp.Ntc.		sibling at a supervising agency.
*		Petitioner states Sean no longer wants to live with	If these matters goes forward:
*	Conf. Screen	his great aunt and requests to live with her.	Need proof of service of Notice of
×	Letters		Hearing at least 15 days prior to the
>	Duties/Supp	Court Investigator Charlotte Bien filed a report on	hearing pursuant to Probate Code
	Objections	9-13-12.	§§ 1511 and 1460(b)(5) <u>or</u> consent
L_	Video Receipt		and waiver of notice <u>or</u> declaration of due diligence on:
*	CI Report		- Sara Abrahamian (Mother)
>	Clearances		- Robert Abrahamian (Maternal
ľ	Order		Grandfather)
			- Susan Nunez (Maternal
			Grandmother) - Sabrina Matheus (sibling)
			odbina Manieos (sibing)
			Note: Declaration of Due Diligence
			filed 7-26-12 states Petitioner can't
			find the father or the mother.
	Aff. Posting		Reviewed by: skc
	Status Rpt		Reviewed on: 9-20-12
>	UCCJEA		Updates:
	Citation		Recommendation:
	FTB Notice		File 10A - Matheus

10A

10B Sabrina, Sean & Shelby Matheus (GUARD/P) Case No. 07CEPR00758

Atty Clinton, Sharon (Pro Per – Paternal Grandmother – Petitioner)

Atty Abrahamian, Laura Levona (Pro Per – Maternal Great-Aunt – Current Guardian)

Petition for Termination of Guardianship

Sean (12	Sean (12) SHARON CLINTON, Paternal Grandmother, is NEEDS/PROBLEMS/COMMENTS:		
3CGIT (12	- /	Petitioner.	TTEEDO, TRODELITIO, CONTUNENTO.
			Note: Please see notes and
		LAURA ABRAHAMIAN, Maternal Great-Aunt,	recommendation on Page 10A.
		was appointed Guardian on 10-11-07.	
A# C	Sub.Wit.		
 			
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l 	Posting		Reviewed by: skc
 	rus Rpt		Reviewed on: 9-20-12
	CJEA		Updates:
I 	ation		Recommendation:
FTB	Notice		File 10B - Matheus

10B

Atty

Sloan, Karen (Pro Per – Administrator – Petitioner)

(1) First and Final Account and Report of Administrator, and (2) Petition for its Settlement and for (3) Final Distribution

DO	D: 1-22-08		KAREN SLOAN , Daughter and Administrator with Full IAEA without bond, is Petitioner.	NEEDS/PROBLEMS/COMMENTS:
			Account period: 1-22-08 through 7-31-12	Need written consent by all distributees to distribution of the real property in undivided
~	Aff.Sub.Wit.		Accounting: \$135,000.00 Beginning POH: \$135,000.00 Ending POH: \$135,000.00 (real property)	interests pursuant to Local Rule 7.12.4.
>	Inventory PTC		Administrator (Statutory): Waived	
> >	Not.Cred. Notice of Hrg		Distribution pursuant to intestate succession:	
~	Aff.Mail Aff.Pub.	W	Karen Sloan: A one-third interest in the real property	
	Sp.Ntc. Pers.Serv.		Trena Lotez: A one-third interest in the real property	
>	Conf. Screen Letters		Katee Sloan: A one-twelfth interest in the real	
	Objections		property Brandee Sloan: A one-twelfth interest in the real	
	Video Receipt		property	
~	CI Report 9202		Kristy Sloan: A one-twelfth interest in the real property	
~	Order Aff. Posting		Tyler Sloan: A one-twelfth interest in the real	Reviewed by: skc
	Status Rpt UCCJEA		property	Reviewed on: 9-21-12 Updates:
~	Citation FTB Notice			Recommendation: File 11 - Sloan

12 Kaylee Huffstutler (GUARD/P)

Case No. 11CEPR00356

- Atty Mekhitarian, Karney Mark (for Julie Weber maternal great-aunt/Guardian)
- Atty Ferraro, Serena (pro per mother/Petitioner)
- Atty Huffstutler, Kyle (pro per father)

Petition for Termination of Guardianship

Ag	e: 3	SERENA FERRARO, mother, is Petitioner.	NEEDS/PROBLEMS/COMMENTS:
	nt. from Aff.Sub.Wit. Verified Inventory	JULIE WEBER, maternal great-aunt, was appointed guardian of the Person on 06/30/11. Father: KYLE HUFFSTUTLER	 Need Notice of Hearing. Need proof of service by mail at least 15 days before the hearing of Notice of Hearing with a copy of Petition for Termination of Guardianship or Consent and Waiver of Notice or Declaration of Due Diligence for:
	PTC Not.Cred.	Paternal grandfather: BRIAN HUFFSTUTLER Paternal grandmother: KATHY HUFFSTUTLER	- Julie Weber (guardian) - Kyle Huffstutler (father) - Brian Huffstutler (patemal grandfather)
	Notice of Hrg X Aff.Mail X	Maternal grandfather: JOE FERRARO Maternal grandmother: SHERRI THOMPSON	- Kathy Huffstutler (paternal grandmother) - Joe Ferraro (maternal grandfather) - Sherri Thompson (maternal grandmother)
	Aff.Pub. Sp.Ntc. Pers.Serv.	Petitioner states that she consented to guardianship last year when she was	
	Conf. Screen Letters	entering rehab. She states that she is now clean and sober, attends AA/NA meetings, is currently employed and has a stable place	
	Objections Video	to live and therefore wants Kaylee to return to her care. She attaches a clean drug test dated 04/17/12 to her Petition. Petitioner	
√	Receipt CI Report	states that she is thankful to her aunt for caring for Kaylee and knows that the	
✓	9202 Order Aff. Posting	guardian and Kaylee have a bond and she has no intention of keeping them away from each other.	Reviewed by: JF
	Status Rpt UCCJEA	Court Investigator Jennifer Young filed a	Reviewed by: 3F Reviewed on: 09/20/12 Updates:
	Citation FTB Notice	report on 09/19/12.	Recommendation: File 12 - Huffstutler

12

Atty Alford, Joni (pro per – paternal aunt/Petitioner)

Petition for Appointment of Temporary Guardianship of the Person (Prob. C. 2250)

Aa	e: 4	GENERAL HEARING 11/15/12	NEEDS/PROBLEMS/COMMENTS:
		JONI ALFORD, paternal aunt, is Petitioner.	Need Notice of Hearing. Need proof of personal service at least 5 court days before the hearing.
		Father: JACARE SHEPHEARD	of Notice of Hearing with a copy of
Со	nt. from Aff.Sub.Wit.	Mother: MICHELLE NIEBEL	the Petition for Appointment of Guardian of the Person <u>or</u> Consent &
√	Verified Inventory PTC	Paternal grandfather: LAWRENCE SHEPHEARD Paternal grandmother: SANDRA YATES	Waiver of Notice <u>or</u> Declaration of Due Diligence for: - Jacare Shepheard (father) - Michelle Niebel (mother)
	Notice of Hrg	Maternal grandparents: UNKNOWN	
	Aff.Mail Aff.Pub.	Petitioner states that Leon's mother left him in	
	Sp.Ntc. Pers.Serv.	her care about 2 years ago. She is unable to care for him and his father is not in a position	
✓	Conf. Screen Letters	to care for him either. Petitioner states that temporary guardianship is needed so that	
✓	Duties/Supp Objections	she can enroll Leon in school and take him to the doctor for a check-up and immunizations.	
	Video Receipt		
	CI Report		
	9202		
√	Order	_	
	Aff. Posting	_	Reviewed by: JF
<u> </u>	Status Rpt	-	Reviewed on: 09/21/12
Ľ	UCCJEA Citation	-	Updates: Recommendation:
	FTB Notice		File 13 - Shepheard

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